

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

MEDICIS PHARMACEUTICAL
CORPORATION,

Plaintiff,

v.

NYCOMED US INC. AND NYCOMED
GMBH,

Defendants.

C.A. No. 10-4140 (DLC)

STIPULATION AND ORDER OF DISMISSAL

WHEREAS Plaintiff Medicis Pharmaceutical Corporation ("Medicis") brought this action asserting infringement of United States Patent Nos. 6,765,001; 7,220,424; and 7,217,422 (the "Medicis Patents");

WHEREAS Nycomed US Inc. submitted to the U.S. Food and Drug Administration Abbreviated New Drug Application ("ANDA") No. 200735 (the "Nycomed ANDA") seeking approval to market and sell a generic fluocinonide cream USP, 0.1%, (the "Nycomed Product");

WHEREAS Nycomed US Inc. ("Nycomed") and Medicis are parties to litigation in this Court relating to the Nycomed ANDA and the Medicis Patents ("the Litigations");

WHEREAS Nycomed GmbH was named as a defendant, but never served with the Complaint in this action and Medicis intends by this Stipulation and Order of Dismissal to dismiss all claims in the Litigations against Nycomed GmbH with prejudice;

WHEREAS Medicis and Nycomed have entered into a License and Settlement Agreement pursuant to which they have resolved the Litigations;

WHEREAS the Court has made no factual or legal findings with regard to the Medicis Patents or the Nycomed Product;


WHEREAS final settlement of the Litigations serves the public interest by saving judicial resources and avoiding the risks and uncertainties to Medicis and Nycomed associated with litigation;

WHEREAS final settlement of the Litigations will permit Medicis and Nycomed to save litigation costs, as well as adhere to the judicially recognized mandate that encourages the settlement of litigation whenever possible;

NOW, THEREFORE, Medicis and Nycomed stipulate that:

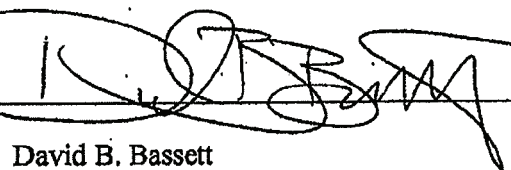
1. Except as reserved and provided for in the License and Settlement Agreement, Nycomed, on behalf of itself and its subsidiaries and affiliates, acknowledges and agrees that the Nycomed Product that is the subject of the Nycomed ANDA would, in the absence of the license granted by Medicis in the License and Settlement Agreement, infringe the Medicis Patents.
2. Except as reserved and provided for in the License and Settlement Agreements, Nycomed, on behalf of itself and its subsidiaries and affiliates, acknowledges and agrees that the Medicis Patents are valid and enforceable with respect to the Nycomed Product.
3. All claims and counterclaims in this action are dismissed with prejudice.
4. Except as set forth in the License and Settlement Agreement, each party shall bear its own costs, expenses and attorneys' fees in connection with this action.
5. The parties waive any right of appeal from this Stipulation and Order.
6. This Court shall retain jurisdiction of this action and over Medicis and Nycomed for purposes of enforcement of the terms and obligations of this Stipulation and Order of Dismissal and the parties' License and Settlement Agreement.

Dated: August ¹⁰____, 2011



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Attorneys for Defendant Nycomed US Inc.

SO ORDERED this _____, day of _____, 2011

United States District Court Judge